

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-2039.M5

MDR Tracking Number: M5-04-3530-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 6-16-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that radiologic exam, mechanical traction, therapeutic exercises, ultrasound, manual therapy technique, electrical stimulation unattended, neuromuscular reeducation and office visits from 8-19-03 through 11-21-03 were not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 7-20-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The carrier denied CPT Code 99080-73 for dates of service 8-20-03, 8-23-03, 9-16-03, 10-14-03, 11-11-03 and 12-9-03. However, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter and, therefore, per Rule recommends reimbursement. Requester submitted relevant information to support delivery of service. Per 134.1(c) **recommend reimbursement of CPT Code 99080-73 for six dates of service from 8-20-03 through 12-9-03 for a total of \$90.00.**

CPT code G0283 for date of service 11-5-03 was billed by the requestor and denied by the carrier. Neither the requestor nor the respondents submitted EOB's for this date of service and did not timely respond to the request for additional information. This date of service will be reviewed in accordance with Rule 134.202. Since the carrier did not provide a valid basis for the denial of this service, **reimbursement is recommended in the amount of \$16.46.**

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees from dates of service 8-20-03 through 12-09-03 as outlined above:

- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 20th day of October 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

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NOTICE OF INDEPENDENT REVIEW DECISION

August 23, 2004

Re: IRO Case # M5-04-3530 amended 9/10/04

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic, who is licensed by the State of Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Reviews 4/21/03, 4/23/04
4. Designated doctor summary 2/23/04
5. TWCC report of medical evaluation 8/12/03
6. Designated doctor evaluation 8/27/03
7. FCE 7/11/03
8. MRI reports lumbar spine 8/9/02, 10/20/03
9. D.C. treatment notes
10. TWCC work status reports
11. Surgery report 12/8/03, 10/8/02
12. M.D. report 4/8/04, 10/23/03, 10/2/02
13. Medical report 11/13/03
14. NCS report 11/3/03
15. Medical report 11/13/02
16. CT scan report lumbar spine 9/12/03
17. D.C. report 8/22/03
18. EMG/NCV report 4/7/03
19. ROM and MMT report 1/17/03
20. Disability certificates
21. Medical report 1/21/02
22. Medical reports 1/13/03, 11/6/02
23. Designated doctor report form 2/26/04

History

The patient injured his low back in ____ when he lifted a 30 pound barrel and felt a painful pop in his low back. He initially was treated with physical therapy and steroid injections. He then had a lumbar laminectomy and microdiscectomy, followed by physical therapy. He then received chiropractic treatment and aquatic therapy. He also was treated with

additional ESIs, nerve blocks and medication. He changed treating doctor to the treating D.C. on 8/19/03 and had additional chiropractic treatment and therapeutic exercises.

Requested Service(s)

Radiologic exam, mechanical traction, therapeutic exercises, OV, ultrasound, manual therapy technique, electrical stimulation unattended, neuromuscular reeducation 8/19/03 – 11/21/03

Decision

I agree with the carrier's decision to deny the requested services.

Rationale

The patient received several months of post operative conservative therapy that failed to be beneficial. A 10/23/03 MRI revealed significant facet arthropathy at L4-S1, disc spacing being "bone on bone," disc bulging that presses on the nerves and a recurrent disc fragment at the L5 level. A 10/23/03 report states that the L4-5 and L5-S1 inner spaces were deteriorating more, so that the patient would benefit from another laminectomy and fusion.

The prognosis for beneficial chiropractic treatment and therapeutic exercises would be very poor at this time, yet the D.C. continued his failed treatment for several more weeks. The documentation from the treating D.C. failed to show any positive gains during the disputed dates of service. The patient's VAS went from 5/10 on 8/19/03 to 9/10 on 11/10/03, indicating that treatment was failing, and possibly aggravating the patient's symptoms. On 11/21/03 the D.C. notes that, "___ is doing worse every time," and he continued stating, "there is nothing really that we can do at this point." The D.C. should have realized this two months earlier. A careful study of the patient's history of failed conservative therapy should have made the D.C. realize that the prognosis for successful chiropractic treatment would be poor, and the patient should have been referred back for medical management. Treatment was not appropriate, reasonable or necessary.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.